IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2556 OF 2006

M/s. NEPC India Ltd. .. Petitioner

Vs.

State of Maharashtra and anr. .. Respondents

Ms. N.S. Nappinai for petitioner.

CORAM: B.H. MARLAPALLE, J.

Date : July 14, 2006.

P.C.:

1. Not on board. Mentioned. Heard the learned counsel for the petitioner-company which is impleaded as defendant in Special Civil Suit No.1237 of 1998 filed before the learned Joint Civil Judge, Senior Division at Pune. The petitioner is aggrieved by the order dated 9/11/2005 passed by the trial court below Exh.32 which was an application filed by the petitioner contending that the document at Sr.No.4 along with the list dated 23/3/2004 was not properly stamped and, therefore, it could not be exhibited and accepted as evidence as per Section 35 of the Indian Stamp Act, 1899. The trial court has held that the issue could be decided after both the parties lead

evidence and at the time of final hearing, more so because the plaintiff contended that it was a Hundi - Bill of exchange on demand and did not require stamp. Whereas the defendant insisted that it was not properly stamped. Thus, whether the document was Hundi or not will be considered after the parties led evidence and it was premature to consider the said issue at an interlocutory stage and before the parties proceeded to lead evidence.

2. The view taken by the trial court in the facts of this case cannot be said to be contrary to the law laid down in the case of Bipin Shantilal Panchal vs. State of Gujarat and anr. **(AIR 2001 SC 1158)**.

3. Hence, the petition is rejected summarily.

(B.H. Marlapalle,J.)